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DATE: February 2, 2006
TO: Examiner Behrang Badii
FIRM: USPTO, Group Art Unit 3621
FAX #: (571) 273-8300
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FROM: Jeffrey N. Giunta

**TOTAL NUMBER OF PAGES: 9
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MESSAGE:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Christopher R. VINCENT

Serial No.: 09/976,524

For: *SHARED AUTHORIZATION DATA AUTHENTICATION METHOD FOR TRANSACTION
DELEGATION IN SERVICE-BASED COMPUTING ENVIRONMENTS*

Enclosed are the following:

Pre-Appeal Brief Request for Review (1 pg.); Appeal Brief (5 pgs.); and Notice of Appeal (2 pgs.)

Docket No.: POU920010113US1

140-A01-010

February 2, 2006

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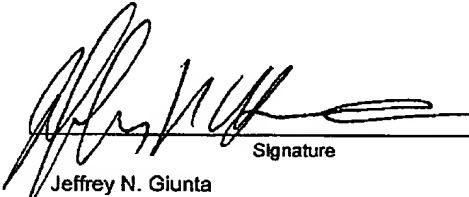
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) POU920010113US1	
I hereby certify that this correspondence facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below. on <u>February 2, 2006</u> Signature <u>Karen Taragowski</u> Typed or printed name <u>Karen Taragowski</u>		Application Number 09/976,524	Filed 10/10/2001
		First Named Inventor Christopher R. Vincent	
		Art Unit 3621	Examiner Behrang Badii
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
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<input type="checkbox"/>	applicant/inventor.	Signature	
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Jeffrey N. Giunta	
<input checked="" type="checkbox"/>	attorney or agent of record. 42,583 Registration number _____	_____ Telephone number	
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	_____ Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/976,524 Confirmation No. 1514
Applicant : Christopher R. Vincent
Filed : October 10, 2001
TC/A.U. : 3621
Examiner : Behrang BADII
Docket No. : POU920010113US1
Customer No. : 23334

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Applicant, Assignee, or Representative

Signature: Karen TaragowskiPRE-APPEAL BRIEF REQUEST FOR REVIEW

The following remarks are submitted with the Applicant's notice of appeal. The Appellant traverses the rejection of independent claims 5, 16 and 25 and also the rejection of dependent claims 9, 20 and 31 under 35 U.S.C. § 102(b) as being anticipated by Serbinis (U. S. Patent Number 6,314,425).

With regards to the independent claims, the Appellant asserts that the Serbinis reference clearly does not teach, as required by 35 U.S.C. § 102¹, the claimed limitations of:

determining that the nonce value is valid and has been accepted for fewer than the specified number of requests; and
responding to the request by returning the data item in response to the determining that the nonce value is valid and accepted for fewer than the specified number of requests.

¹ See MPEP §2131 (Emphasis Added) "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim."

The Examiner states that "Serbinis et al, discloses 'If the number of retries exceeds the predetermined limit, the notification request flag is set to 'failed' at step 227, and the notification transaction is logged as 'failed,' at step 228.'" Office Action dated October 2, 2005, page 2, first paragraph (emphasis added, citing Serbinis, column 20, lines 16-25). The Examiner cites a portion of the Serbinis reference that discusses the retrying of notification transmissions upon failure of a notification transmission. (Serbinis, Col. 20, lines 16-25). These notification transmissions are sent to a user in response to various user events. (Serbinis, col. 19, lines 33-43). The cited portion of Serbinis describes ensuring that the retries of notification transmissions do not exceed a predetermined limit. Serbinis, Col. 20, lines 16-25. The Appellant asserts that limiting the retransmissions of notifications, as taught by Serbinis, is not relevant to the subject matter of the presently claimed invention, which pertains to "controlling access to data on a computer" and more specifically limits the "responding to the request by returning the data item in response to the determining that the nonce value is valid and accepted for fewer than the specified number of requests" as is set forth by the independent claims.

Furthermore, the Appellant asserts that the tokens of the Serbinis reference are limited to restricting access to data by associating an expiration date with the token. The system of Serbinis validates any number of requests that present a particular token value prior to the expiration date associated with that token value. The Serbinis reference has no teaching or suggestion of limiting the successful use of a nonce to only a specified number of requests, as is set forth in the independent claims. As set forth in claims 5, 16 and 27, the time period in which the nonce can be used is not restricted to a time period, only to the number of times that the nonce can be used. The operation of the presently claimed invention provides flexibility in systems incorporating the nonce of the present invention since the user is free to use the nonce, and thereby receive the requested data, for the specified number of times over any time interval desired. This operation further provides additional functionality to the operator of the data server, since the number of data items provided to users is set, not simply the time

span over which that data can be retrieved. In the system of Serbinis, a user is free to request a data item as often as the user desires prior to expiration of the token.

The Appellant further traverses the Examiner's assertions regarding the inherent teachings of the Serbinis reference. Office Action dated November 2, 2005, page 2, second paragraph. The Appellant asserts that the teachings of Serbinis do not meet this standard, and refers to the further contents of MPEP §2112(IV) recited on page 4 of the After-Final Response submitted January 3, 2006. The Appellant asserts that the claimed limitation of "responding to the request by returning the data item in response to the determining that the nonce value is valid and accepted for fewer than the specified number of requests" is clearly not an inherent disclosure under the standards set forth by the MPEP. The Appellant respectfully asserts that this aspect of the present invention does not even fall within being "established by probabilities or possibilities" as prohibited by the above portion of the MPEP.

As further discussed on page 5, first full paragraph, of the After-Final Response submitted Jan. 3, 2006, the teachings of Serbinis are also not sufficient to support an obviousness rejection under 35 U.S.C. §103.

With regards to dependent claims 9, 20 and 31, the Appellant traverses the Examiner's assertion that the Serbinis reference teaches that "the list of stored and valid nonce values is shared with an entity that originated the data request." Office Action dated November 2, 2005, page 4, fourth paragraph. The Examiner apparently is asserting that the "file sharing" of the Serbinis reference, which refers to the sharing of documents based upon presentation of a valid token, includes sharing the token list itself. The Appellant asserts that this is clearly not the case, the database discussed in Serbinis at column 21, lines 30-51, is only examined to validate the received token values. There is no teaching, suggestion or motivation in the Serbinis reference, or in any of the other cited references, to share the token database file in a manner similar to sharing documents. The teachings of the Serbinis reference are limited to storing and sharing documents or services provided by a common database and document store. Serbinis,

Abstract; and column 10, lines 10-49. The documents to be shared are in the database, the data base files of Serbinis are not shared across a network. The Appellant respectfully refers to the requirements for inherent teachings discussed above. "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. MPEP §2112(IV), citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" MPEP §2112(IV), citing *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). Further, the Appellant asserts that even under an obviousness analysis, there is no motivation provided by the prior art to share the database files as is apparently asserted by the Examiner.

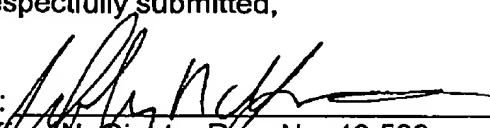
Further, the cited portions of the Serbinis reference do not teach sharing tokens, but only generating and validating them. Serbinis, Abstract. Serbinis does teach proving tokens to users as part of a notification of an event. Serbinis, Col. 21, lines 27-29. Although individual tokens are shared by the Serbinis reference, the Serbinis reference does not teach or suggest sharing "the list of stored and valid nonce values" as is set forth in claims 9, 20, and 31. In the context of these claims, this "list of stored and valid nonce values" is defined in preceding claims from which these claims depend as the list to which the nonce value is compared to determine its validity. See, Claims 8, 19 and 31. The Appellant asserts that this "list of stored and valid nonce values" is clearly the entire list of currently stored and valid nonce values. The Appellant further asserts that Serbinis does not teach or suggest sharing this "list" with any entity, let alone the "entity that originated the data request".

Accordingly, independent claims 5, 16, and 27 distinguish over Serbinis for at least these reasons and the Examiner's rejection should be reversed. All dependent claims further depend from these independent claims and are therefore allowable as well.

Additionally, dependent claims 9, 20 and 31 further distinguish over the Serbinis reference, and the rejection of those claims should be reversed as well.

Respectfully submitted,

Date: February 2, 2006

By: 
Jeffrey N. Giunta, Reg. No. 42,583
Attorney for Appellants